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No. 93-1121

Supreme Court, U.S.
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IN THE
Supreme Court of the United States
OCTOBER TERM, 1993

ED PLAUT, *et al.*,

Petitioners,

v.

SPENDTHRIFT FARM, INC., *et al.*,

Respondents.

On Petition for
Writ of Certiorari to the
United States Court of Appeals
for the Sixth Circuit

MEMORANDUM OF RESPONDENTS

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MEMORANDUM OF RESPONDENTS

Respondents Gibson, Dunn & Crutcher and Francis M. Wheat file this memorandum in connection with the petition for writ of certiorari in this case.

Petitioners seek review of the Sixth Circuit's decision below holding that application of § 27A of the Securities and Exchange Act of 1934, 15 U.S.C. § 78aa-1, to reopen closed cases and to disrupt final, unappealed judgments of Article III courts violates the constitutional separation of powers and "vested rights" doctrines. *See* Pet. App. 25a-26a; *id.* 14a n.12. On January 10, 1994, this Court granted certiorari in

First RepublicBank Corp. v. Pacific Mutual Life Ins. Co., No. 93-609, *cert. granted*, Jan. 10, 1994, which raises the question whether § 27A, as applied to final, unappealed judgments, "contravenes the separation of powers doctrine and the due process clause of the United States Constitution."¹

Because these two cases raise similar issues, respondents respectfully suggest that the Court hold the petition for writ of certiorari in this case pending the Court's disposition of *First RepublicBank*.

Respectfully submitted,

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February 11, 1994

¹ Pet. for Cert. in No. 93-609, at i.